

UNITED STATES OF AMERICA,)
)
) Case No. 1:04CR00072
)
v.) **OPINION**
)
)
) By: James P. Jones
STEVEN WINFIELD TOMERSHEA,)
) United States District Judge
Defendant.)

Defendant has filed a pleading that he styles as a “MOTION TO REOPEN IN LIGHT OF NEW UNITED STATES SUPREME COURTS DECISIONS.” Defendant states that, under new case law, I should reopen his case, find that his trial counsel offered ineffective assistance regarding his guilty plea, and reduce his sentence. As defendant cites no authority for the relief he seeks, I must deny his “MOTION TO REOPEN.” Moreover, based on the nature of defendant’s claims, I construe defendant’s pleading as a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255 and summarily deny it without prejudice as successive, pursuant to 28 U.S.C.A. § 2255(h).

Court records indicate that defendant previously filed a § 2255 motion concerning this same conviction and sentence, *United States v. Tomershea*, Case

No. 1:04CR00072/1:12CV80436, 2012 WL 5465842 (W.D. Va. 2012) (unpublished). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255(h). Because Tomershea offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current action without prejudice.

A separate Final Order will be entered herewith.

DATED: November 6, 2013

/s/ James P. Jones
United States District Judge